UNITED NATIONS **S**

Security Council

Distr.
GENERAL

S/1997/62
22 January 1997

ORIGINAL: ENGLISH

LETTER DATED 21 JANUARY 1997 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to write to you concerning recent important developments with respect to the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES).

Since my report of 26 October 1996 (S/1996/883), the political focus of UNTAES has been to resolve outstanding policy issues required for the holding of elections. The Joint Implementation Committee (JIC) on Elections, which had been meeting intensively since 16 October 1996, was unable to resolve any of the principal policy questions, including representation (the institutions for which elections are to be held), voter eligibility and timing of elections.

As at 17 December 1996, when the concluding meeting for the year of the JIC on Elections was held, the Croatian position was that all residents of the region of Eastern Slavonia, hereafter referred to as the region, who were eligible for Croatian citizenship, and who were living in the region at the time of the beginning of the UNTAES mandate on 15 January 1996, would be entitled to vote. Elections should be for existing Croatian institutions within existing electoral boundaries and they should take place simultaneously with nationwide Croatian local and regional elections scheduled for 16 March 1997.

The position of the local Serb delegation at that time was that the region should be a single territorial unit with the same status as, or similar to, a county under Croatian law. Elections in the region should be held later than elections in the rest of Croatia and all residents of the region, irrespective of origin or date of entry into the region, should be qualified to vote if they had citizenship of the former Socialist Federal Republic of Yugoslavia. The Serb delegation stated that it was unable to move beyond its insistence on a single region or to settle any other matters until agreement was reached on this issue.

In an attempt to resolve this political deadlock, the Transitional Administrator met with local Serb leaders and Croatian government officials to explore areas of flexibility and compromise. While the Government of Croatia was willing to offer substantial additional guarantees to local Serbs, on

24 December 1996, following an address by the Transitional Administrator, the local Serb Regional Assembly declined to make any concession on its position on a single region.

On 26 December, the Transitional Administrator wrote to President Franjo Tudjman proposing elements of a comprehensive political package as a framework for elections and for long-term guarantees for the local Serb ethnic community. The Transitional Administrator also wrote to Dr. Stanimirović, President of the local Executive Council, outlining elements of the political package and urging the local Serb leadership to represent responsibly the interests of those Serbs from the region who wished to stay in Croatia. Whereas the Croatian authorities indicated their readiness to discuss these proposals, no response was received from local Serb leaders.

On 30 December, the Transitional Administrator commenced intensive consultations with President Tudjman and the Government of Croatia on the political package for elections. The outcome of those consultations is contained in the letter from the Government of Croatia on the completion of the peaceful reintegration of the region under the Transitional Administration, Croatia, of 13 January 1997 (S/1997/27, annex).

I should like to draw your attention to the following features of the letter:

(a) Elections in the region will be held simultaneously with nationwide elections, which are currently scheduled for 16 March 1997. Following certification of the elections by the Transitional Administrator, elected local bodies of authority will be established no later than 30 days after the elections;

(b) All current residents who settled in the region prior to the beginning of the UNTAES mandate and who are entitled to Croatian citizenship may vote. Displaced persons who settled in the region after the 1991 census but before the start of the UNTAES mandate on 15 January 1996 may choose to vote for local bodies in the region or for local bodies in the area of their 1991 domicile;

(c) The Government of Croatia will issue citizenship and identity documents for all eligible voters in sufficient time to enable them to participate in elections. This is an essential prerequisite for the elections to take place in the envisaged time-frame;

(d) Local Serbs are guaranteed to hold a post of Sub-Prefect in each of the two counties that cover the region;

(e) Proportional representation for local Serbs is guaranteed in local health services, police and the judiciary. For at least the first year, the number of Serb and other non-Croat police in the area now under the Transitional Administration will be approximately 700 to 800;

(f) Pursuant to the Basic Agreement, members of the local Serb ethnic community may appoint a Joint Council of Municipalities, which shall meet at

least once every four months directly with the Croatian President or the Chief of the Presidential Cabinet;

(g) Following the next national census, Serbs and other national minorities shall have proportional representation in the House of Representatives of the Croatian Parliament;

(h) Pursuant to his constitutional powers, the President shall appoint two Serbs as deputies in the House of Counties of the Croatian Parliament. While the right of the President to appoint additional members to the House of Counties cannot be limited to a particular geographic region, President Tudjman has assured the Transitional Administrator that it is his intention to appoint one Serb from the Baranja and one from the southern part of the region;

(i) Serbs are guaranteed senior-level positions in key ministries, including, at a level no lower than Assistant Minister, in the Ministries of the Interior, Justice and Education and Culture. They are also entitled to participation in the working bodies of the Croatian Parliament;

(j) Serbs and other minorities in the region are guaranteed full rights with respect to educational and cultural autonomy;

(k) Members of the Serb ethnic community throughout Croatia may establish a council of the Serb ethnic community, which may apply to the President and Government proposing and promoting the solution of issues of common interest;

(l) All Serbs from the region shall have an automatic deferment of compulsory military service for two years from the end of the UNTAES mandate. After that time they may apply individually for a further deferment. During the period of deferment, all constitutional and civil rights will pertain, including the right to obtain a passport, and shall not in any way be hampered. In this context it should be noted that Croatian government officials have stated to UNTAES that the Ministry of Defence will consider in a positive manner individual applications for the second period of deferment and that the provisions of Croatian law on conscientious objection to military service will be available to all;

(m) Residents of the region who are war victims, including disabled persons, widows and orphans, shall enjoy full health and social service rights, with the exception of specific rights pertaining to Croat war veterans;

(n) Nothing in the letter shall derogate from the obligations of the Basic Agreement (S/1995/951, annex), Security Council resolution 1037 (1996) of 15 January 1996 or the Croatian Constitution.

The Transitional Administrator considers that the rights and guarantees outlined in the letter, if fully and genuinely implemented, constitute a solid basis for the holding of elections simultaneously with nationwide elections in Croatia and offer substantial progress towards the completion of the process of peaceful reintegration of the region. Through this letter, the Government of Croatia has committed itself before the international community to implement fully the Basic Agreement and has extended additional rights and privileges to

residents of the region. The Government of Croatia has also indicated to the Transitional Administrator its agreement to international monitoring of the implementation of the commitments outlined in the letter.

The Transitional Administrator stresses that it will be possible to hold those elections within the envisaged time-frame only if the Croatian authorities live up to their obligations with respect to the issuance of documents required for voting and completion of the technical arrangements for holding elections.

In the consideration of their response to the offers of the Government of Croatia, the Transitional Administrator urged local Serbs to look to the future and to put aside unrealistic demands. He urged local Serbs and their leaders to accept the package of measures offered and to participate actively in the forthcoming elections. In response to the letter, on 16 January 1997, the local Serb Executive Council and Regional Assembly wrote jointly to the Transitional Administrator seeking the following additional guarantees:

(a) Complete and permanent demilitarization of the existing UNTAES region;

(b) Exemption from military service for Serbs for at least 15 years;

(c) Guaranteed equal rights for all displaced persons and refugees in Croatia to remain in their present accommodation until their original homes are rebuilt, or to be compensated for destroyed or damaged property, or to be provided adequate accommodation in the area where they live at present;

(d) The creation of a single county for the region.

It should be noted that UNTAES has no mandate to pursue directly the question of the post-UNTAES military status of the region. However, as a long-term confidence-building measure of benefit to residents of the region, the Transitional Administrator has been actively encouraging the Government of Croatia to maintain the present demilitarized status of the region and to reach agreement with Yugoslavia and Hungary on a demilitarized common border area. The Council may wish to support this endeavour in an appropriate manner.

With respect to a prolonged exemption from military duty for local Serbs, as noted above, Croatian officials have stated to UNTAES that applications for the second period of deferment of military service will be considered in a positive manner.

It should be noted also that the right to equal treatment with respect to housing, access to reconstruction grants and loans, and to property compensation is guaranteed by existing Croatian law. Moreover, the right of citizens of a State to choose freely where they wish to live in the territory of that State is a fundamental human right guaranteed by several international conventions to which Croatia is a party, including article 12 of the International Covenant on Civil and Political Rights and article 2 of Protocol 4 of the European Convention on Human Rights, which Croatia has undertaken to ratify. I believe that the Government of Croatia should be encouraged to make a statement reaffirming its obligations under the Constitution, Croatian law and the Basic Agreement to treat all of its citizens equally regardless of their ethnicity.

Over the coming months, the support of the international community for the measures outlined in the letter will be crucial for the holding of elections and the completion of the process of peaceful reintegration. It is my view that the political package, taken in conjunction with the Basic Agreement and resolution 1037 (1996) and the guarantees contained in the Affidavit of Employment signed by the Government of Croatia on 16 December 1996 (see annex), constitutes a comprehensive framework of guarantees for Serbs who choose to stay in Croatia as equal citizens enjoying full rights under the Croatian Constitution in accordance with international law and under international monitoring.

The letter of the Government of Croatia in my view merits favourable consideration by the Council. I am obliged, however, to reiterate that strict compliance by all sides with the obligations outlined in the letter, and the full support of the international community, are essential if the reintegration process is to succeed.

I should be grateful if you could bring the present letter to the attention of members of the Security Council.

(Signed) Kofi A. ANNAN

Annex

Affidavit

The Office of the Government of the Republic of Croatia for Transitional Administration, on behalf of the Government of the Republic of Croatia, hereby agrees that the rights of the employees of the public enterprises and institutions presently existing in Eastern Slavonia, Baranja and Western Sirmium, for whom the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium confirms that were employed on 30 September 1996, shall be protected in accordance with the legislation of the Republic of Croatia and in conformity with the relevant international standards, including those of the International Labour Organization.

Therefore, it is understood that the Croatian Ombudsman will review and make recommendations as necessary to ensure the implementation of relevant international standards accordingly. The United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium will monitor such rights as appropriate.

In witness thereof, the Head of the Office of the Government of the Republic of Croatia for Transitional Administration, on behalf of the Government of the Republic of Croatia, has signed this affidavit in triplicate in Croatian and English.

(Signed) Mr. Vrkic
Head, Office of the Government of the Republic of Croatia for Transitional Administration — 16 December 1996

(Signed) Ombudsman of the Republic of Croatia — 19 December 1996

(Signed) Jacques Paul Klein
Transitional Administrator, United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium, as witness — 17 December 1996